

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

FILED
U.S. BANKRUPTCY C
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S.D. OF N.Y.

JENNIFER LYNN BENN

Creditor/Petitioner

Case No. 18-23538; 18-23555

v.

**MOTION OF RELIEF FROM POSITION
OF AUTOMATIC STAY AND NOTICE OF
PERFECTION**

SEARS HOLDING CORPORATION, *et al*

Defendant.

MOTION OF RELIEF FROM POSITION OF AUTOMATIC STAY AND NOTICE OF PERFECTION

I, JENNIFER L. BENN, a Plaintiff [OR CCB File No: 113202-117; Case No. 18sc19741], was notified on October 20, 2018 of a Notice of Bankruptcy filing by Sears Holdings Corporation and its debtor affiliates date October 15, 2018 with the United States Bankruptcy Court for the Southern District of New York. The notification of the bankruptcy petition additionally pursued an Imposition of Automatic Stay. Sears Holdings Corporation and its affiliates in pursuant to 11 U.S.C. §362(a)(1), (3), asserting a statutory right to seek relief.

I, Jennifer L. Benn, am filing a Motion for Relief from Imposition of Automatic Stay under Bankruptcy Code 11 U.S.C. § 362(d), supported by the following Memorandum of Points:

1. A governmental entity, pursuant to 11 U.S.C. §1334, Oregon Construction Contractor's Board (OCCB) Complaint File No. 113202-117 is a pre-petitioned claim on or about January 30, 2018, arising prior to the commencement of foresaid bankruptcy case.
2. According to the OCCB, OAR 812-004-1250, one of the laws governing dispute resolution processes states: "The agency's determination of payment due from a surety bond may not include amounts arising out of claims for anything other than construction work involving negligence, improper work, or breach of contract."
3. Under regulations of the OCCB Dispute Analyst, Jeremy Guenther, to retain access to Sears Home Improvement Products, Inc. surety bond required the complaint *in situ* to be filed with the small claim court in the County of Douglas, State of Oregon Case No. 18-19741.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

JENNIFER LYNN BENN

Case No. 18-cv-01232-JCL

Debtors

OFFICE OF THE CLERK
OF THE COURT
SOUTHERN DISTRICT OF NEW YORK

Defendant

NOTICE OF RELIEF FROM POSITION OF AUTOMATIC STAY AND NOTICE OF PERFECTION

JENNIFER LYNN BENN, a Plaintiff for COB The No. 18-cv-01232-JCL, was notified on October 30, 2018 of a Notice of Bankruptcy filing by Sears Holdings Corporation and its debtor affiliates. On October 12, 2018 with the United States Bankruptcy Court for the Southern District of New York. The notification of the bankruptcy petition was initially pursued in opposition to Automatic Stay. Sears Holdings Corporation and its affiliates in pursuant to 11 U.S.C. § 362(d)(2) asserting a statutory right to seek relief. Jennifer Lynn Benn and filing a Motion for Relief from imposition of Automatic Stay under Bankruptcy Code 11 U.S.C. § 362(d) supported by the following Memorandum of Points.

A governmental entity pursuant to 11 U.S.C. § 541(c)(2)(B) Oregon Department of Transportation's Board

complaint No. 18-cv-01232-JCL is a governmental entity under Bankruptcy Code.

arising prior to the commencement of federal bankruptcy case.

According to the OCCB OAR 817-004-1550 one of the laws pertaining dispute resolution

processes under the agency's determination of payment does from a surety bond may not include amounts arising out of or in connection with other than construction work involving negligence.

improper work or breach of contract.

Under regulations of the OCCB Dispute Analysis Agency the right to retain access to Sears Home Improvement Products Inc. surety bond required the complaint to be filed with the small

claim court in the County of Douglas, State of Oregon Case No. 18-19741.

- 1 4. The OCCB Complaint Case No.113202-117, with the proceeding Small Claim Case No.18-19741
2 are the sole liability of Surety Claim, Bond No. 29S119189 in the amount of \$20,000 registered
3 with SafeCo Insurance Company, at location: 10010 Fourth Avenue, Suite 1300 in Seattle,
4 Washington.
- 5 5. Disputes deriving from the Surety Bond are considered non-estate property of the 11 U.S.C. §
6 362(d), compensation from SafeCo Insurance Company held are to guarantee work performance,
7 materials, or lack therein, by Sears Home Improvement Products, Inc. contract(s).
- 8 6. Obligations for settlement of OCCB Complaint Case No.113202-117, and Small Claim Case
9 No.18-19741 are deemed as non-estate with priority, pursuant 11 U.S.C. § 507(a)(3){502(e)(2) and
10 502(f). Nos. 18-23555 and 18-23538, are not subject the automatic stay, and enforceable
11 irrespective of Bankruptcy Case hereto.
- 12
13
14

15 DATED this 21 day of March, 2019.

16
17
18
19
Signature

JENNIFER L. BENN

191 NE ROSE AVENUE

MYRTLE CREEK, OREGON 97457

TELEPHONE: 541.580.5404

FASCIMILE: 541.863.6842

EMAIL: bennj@eou.edu

IN THE UNITED STATES BANKRUPTCY COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

Case No. 18-23538; 18-23555

JENNIFER L. BENN

Creditor/Petitioner

v.

**AFFIRMATION OF SERVICE
BY CERTIFIED MAILING**

Sear's Home Improvement Products, Inc.

Defendant/Respondent

I am a Creditor/Petitioner in this case.

On 25th of March, 2019, I served a true copy of **MOTION FOR RELIEF FROM POSITION OF AUTOMATIC STAY** and **NOTICE OF PERFECTION** by depositing a properly addressed by First-class mailing into the custodial delivery of the United States Postal Service to the legal representatives relating to the defendant(s) **Sears Holdings Corporation, et al.** at the following location:

Weil, Gotshal & Manges, LLP.
767 Fifth Avenue
New York, New York 10153
Telephone: (212)310-8000
Fascimile: (212)310-8007

Certificate of Document Preparation. Check all that apply:

☒ I chose this form for myself and completed it without paid help.

A legal help organization helped me choose or complete this form, but I did not pay money to anyone.

I paid (or will pay) _____ for help choosing, completing, or reviewing this form.

I hereby declare that the above statements are true to the best of my knowledge and belief, and that I understand they are made for use as evidence in court and I am subject to penalty for perjury.

March 25, 2019
Date


Signature

JENNIFER L. BENN
191 NE ROSE AVENUE
MYRTLE CREEK, OREGON 97457

IN THE UNITED STATES BANKRUPTCY COURT FOR THE

SOUTHERN DISTRICT OF NEW YORK

Case No. 18-23538

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF NEW YORK

STATEMENT OF RECEIPTS

BY CREDITORS

Case No. 18-23538

Chapter 11

Case No. 18-23538

On 3/27/19, I received a true copy of the Statement of Receipts of the United States Bankruptcy Court for the Southern District of New York, Case No. 18-23538, Chapter 11, filed 3/27/19.

I have reviewed the Statement of Receipts and the accompanying exhibits, and I have compared the same with the records of the United States Bankruptcy Court for the Southern District of New York, Case No. 18-23538, Chapter 11, and I have found that the same are correct and true.

I have also reviewed the Statement of Receipts and the accompanying exhibits, and I have compared the same with the records of the United States Bankruptcy Court for the Southern District of New York, Case No. 18-23538, Chapter 11, and I have found that the same are correct and true.

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Signature

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

MAURICE GREEN, CLERK